

**REMARKS/ARGUMENTS**

Claims 1-57 are pending in the above application.

The Office Action dated December 23, 2009, has been received and carefully reviewed. In that Office Action, claims 1-8, 12-38 and 42-57 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 5,946,386 to Rogers. Claims 9-11 and 39-41 were objected to as being dependent upon rejected base claims but were indicated to be allowable if amended to include the limitations of their base claims. It is believed that the pending claims patentably distinguish over the art of record, and reconsideration and allowance of claims 1-8, 12-38 and 42-57 is respectfully requested in view of the following remarks. Because all claims are believed to be allowable, the objected-to claims, claims 9-11 and 39-41, are not being rewritten in independent form at this time.

Applicant has previously addressed the outstanding rejections, and it may become necessary to have the rejections reviewed on appeal. However, before filing a notice of appeal, clarification on three issues is respectfully requested.

Claim 1 recites, inter alia, a network device and a first other network device. On page 2 of the Office Action, it is indicated that the element in Rogers that meets the limitation "first other network device" is the system user 113, a human being, illustrated in Figure 1 of Rogers. It is respectfully submitted that one of ordinary skill in the relevant art would not refer to a human being as a "first other network device." MPEP 2111 requires an examiner to give claim terms their broadest reasonable interpretation; however, this section also requires the interpretation to be consistent with the one used by those of ordinary skill in the art. It is respectfully submitted that a person of ordinary skill in the relevant art would not refer to a human being as a "first other network

device.” If the rejection of claim 1 is maintained, it is respectfully requested that the examiner provide an explanation or evidence to show that human beings are referred to as “network devices” by those of ordinary skill in the art.

Next, claim 12 recites that the network device recited in claim 1 comprises “one of a telephone, a video phone, a PDA (Personal Digital Assistant), a soft phone, a wireless device, a wireless telephone and a cell phone.” The Office Action indicates that call management computer 101 corresponds to the recited “network device.” Call management computer 101 is a computer that functions like a PBX or a telephone central office (column 8, lines 18-22). It does not appear that call management computer 101 is a telephone, a video phone, a PDA (Personal Digital Assistant), a soft phone, a wireless device, a wireless telephone or a cell phone under any reasonable interpretation of these terms. It is respectfully requested that the examiner indicate for the record whether call management computer 101 is being interpreted as a telephone, a video phone, a PDA (Personal Digital Assistant), a soft phone, a wireless device, a wireless telephone or a cell phone to reduce the issues for a possible appeal.

Finally, it is noted that independent claims 22 and 27 include limitations different than those of claim 1, and each was argued separately in response to the previous Office Action. It is respectfully requested that the examiner comply with the requirements of MPEP 707.07(f) and “answer all material traversed,” by responding to these arguments so that the record will be complete for appeal. With regard to claim 22, it does not appear that the art of record shows network device 101 receiving a message from human 113 that contains a reference to a second other network device 118 as would be required under the interpretations used in the Office Action. With

regard to claim 27, it is not clear how network device / human being 113 includes a "user interface" adapted to receive a user input requesting a call transfer or a "call transfer function" as recited in claim 27.

Applicant maintains all previous arguments and will present them again on appeal if necessary. Reconsideration and allowance of the rejected claims is respectfully requested. If the examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact Scott Wakeman (Reg. No. 37,750) at the telephone number listed below.

*Deposit Account Authorization*

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,

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